

# SENATE BILL 310

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EMERGENCY BILL

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CF HB 304

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By: **Senators Kasemeyer, Currie, DeGrange, Garagiola, Kittleman, Madaleno, McFadden, Middleton, and Munson**

Introduced and read first time: January 27, 2010

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Education – Maintenance of Effort Requirement – Process and Factors**

3 FOR the purpose of altering the date by which a county governing body must make a  
4 request to the State Board of Education for a waiver from the maintenance of  
5 effort requirement; clarifying the maintenance of effort requirement for which a  
6 county may apply for a waiver; requiring the State Board of Education to  
7 consider certain factors when making a decision whether to grant a waiver;  
8 altering the date by which the State Board of Education must inform the county  
9 governing body whether the waiver application has been granted or denied;  
10 making this Act an emergency measure; and generally relating to the  
11 maintenance of effort requirement for primary and secondary education.

12 BY repealing and reenacting, with amendments,  
13 Article – Education  
14 Section 5–202(d)  
15 Annotated Code of Maryland  
16 (2008 Replacement Volume and 2009 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Education**

20 5–202.

21 (d) (1) To be eligible to receive the State share of the foundation program:

22 (i) The county governing body shall levy an annual tax  
23 sufficient to provide an amount of revenue for elementary and secondary public  
24 education purposes equal to the local share of the foundation program; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1                   (ii) The county governing body shall appropriate local funds to  
2 the school operating budget in an amount no less than the product of the county's  
3 full-time equivalent enrollment for the current fiscal year and the local appropriation  
4 on a per pupil basis for the prior fiscal year.

5                   (2) Except as provided in paragraph (3) of this subsection, for purposes  
6 of this subsection, the local appropriation on a per pupil basis for the prior fiscal year  
7 for a county is derived by dividing the county's highest local appropriation to its school  
8 operating budget for the prior fiscal year by the county's full-time equivalent  
9 enrollment for the prior fiscal year. For example, the calculation of the foundation aid  
10 for fiscal year 2003 shall be based on the highest local appropriation for the school  
11 operating budget for a county for fiscal year 2002. Program shifts between a county  
12 operating budget and a county school operating budget may not be used to artificially  
13 satisfy the requirements of this paragraph.

14                   (3) For purposes of this subsection, for fiscal year 1997 and each  
15 subsequent fiscal year, the calculation of the county's highest local appropriation to its  
16 school operating budget for the prior fiscal year shall exclude:

17                   (i) A nonrecurring cost that is supplemental to the regular  
18 school operating budget, if the exclusion qualifies under regulations adopted by the  
19 State Board; and

20                   (ii) A cost of a program that has been shifted from the county  
21 school operating budget to the county operating budget.

22                   (4) The county board must present satisfactory evidence to the county  
23 government that any appropriation under paragraph (3)(i) of this subsection is used  
24 only for the purpose designated by the county government in its request for approval.

25                   (5) Any appropriation that is not excluded under paragraph (3)(i) of  
26 this subsection as a qualifying nonrecurring cost shall be included in calculating the  
27 county's highest local appropriation to its school operating budget.

28                   (6) Qualifying nonrecurring costs, as defined in regulations adopted by  
29 the State Board, shall include but are not limited to:

30                   (i) Computer laboratories;

31                   (ii) Technology enhancement;

32                   (iii) New instructional program start-up costs; and

33                   (iv) Books other than classroom textbooks.

1           (7) (i) The [provisions] **MAINTENANCE OF EFFORT**  
2 **REQUIREMENT IN PARAGRAPH (1)(II)** of this subsection [do] **DOES** not apply to a  
3 county if the county is granted a temporary waiver or partial waiver from the  
4 [provisions] **REQUIREMENT** by the State Board of Education based on a  
5 determination that the county's fiscal condition significantly impedes the county's  
6 ability to fund the maintenance of effort requirement.

7                   (ii) [After a public hearing, the State Board of Education may  
8 grant a waiver under this paragraph in accordance with its regulations.

9                   (iii) In order to qualify for the waiver under this paragraph for a  
10 fiscal year, a county shall make a request for a waiver to the State Board of Education  
11 by [April 1] **THE EARLIER OF THE SEVENTH DAY FOLLOWING THE END OF THE**  
12 **LEGISLATIVE REGULAR SESSION OR MAY 1** of the prior fiscal year.

13                   **(III) THE STATE BOARD OF EDUCATION SHALL HOLD A**  
14 **PUBLIC HEARING BEFORE ACTING ON AN APPLICATION FOR A WAIVER UNDER**  
15 **THIS PARAGRAPH IN ACCORDANCE WITH ITS REGULATIONS.**

16                   **(IV) WHEN CONSIDERING WHETHER TO MAKE A**  
17 **DETERMINATION THAT A COUNTY'S FISCAL CONDITION SIGNIFICANTLY**  
18 **IMPEDES THE COUNTY'S ABILITY TO FUND THE MAINTENANCE OF EFFORT**  
19 **REQUIREMENT, THE STATE BOARD OF EDUCATION SHALL CONSIDER THE**  
20 **FOLLOWING FACTORS:**

21                   1. **EXTERNAL ENVIRONMENTAL FACTORS SUCH AS A**  
22 **LOSS OF A MAJOR EMPLOYER OR INDUSTRY AFFECTING A COUNTY OR A BROAD**  
23 **ECONOMIC DOWNTURN AFFECTING MORE THAN ONE COUNTY;**

24                   2. **A COUNTY'S TAX BASES;**

25                   3. **RATE OF INFLATION RELATIVE TO GROWTH OF**  
26 **STUDENT POPULATION IN A COUNTY;**

27                   4. **MAINTENANCE OF EFFORT REQUIREMENT**  
28 **RELATIVE TO A COUNTY'S STATUTORY ABILITY TO RAISE REVENUES;**

29                   5. **A COUNTY GOVERNING BODY'S HISTORY OF**  
30 **EXCEEDING THE REQUIRED MAINTENANCE OF EFFORT AMOUNT UNDER**  
31 **PARAGRAPH (1)(II) OF THIS SUBSECTION;**

32                   6. **THE EXISTENCE OF AN AGREEMENT BETWEEN A**  
33 **COUNTY GOVERNING BODY AND A COUNTY BOARD THAT A WAIVER SHOULD BE**  
34 **GRANTED; AND**

1                                   **7.    SIGNIFICANT REDUCTIONS IN STATE AID TO A**  
2 **COUNTY AND MUNICIPALITIES OF THE COUNTY FOR THE FISCAL YEAR FOR**  
3 **WHICH A WAIVER IS APPLIED.**

4                                   **[(iv)](v)**       The State Board of Education shall inform the county  
5 whether the waiver for a fiscal year is approved or denied in whole or in part **[by May**  
6 **15 of the prior fiscal year] NO LATER THAN 45 DAYS AFTER RECEIPT OF AN**  
7 **APPLICATION OR JUNE 1 OF THE PRIOR FISCAL YEAR, WHICHEVER IS EARLIER.**

8                                   **[(v)](VI)**       If the State Board of Education grants a county a  
9 temporary waiver or partial waiver from the provisions of this subsection for any fiscal  
10 year, the minimum appropriation of local funds required under this subsection for the  
11 county to be eligible to receive the State share of the foundation program for the next  
12 fiscal year shall be calculated based on the per pupil local appropriation for the prior  
13 fiscal year or the second prior fiscal year, whichever is greater.

14                                   **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act is an emergency  
15 measure, is necessary for the immediate preservation of the public health or safety,  
16 has been passed by a yea and nay vote supported by three-fifths of all the members  
17 elected to each of the two Houses of the General Assembly, and shall take effect from  
18 the date it is enacted.